

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 2, 4-5, 9, 12, 14-15, and 18-28 are cancelled. Claims 1, 3, 6-8, 10-11, 13, and 16-17 remain in this application and, as amended herein, are submitted for the Examiner's reconsideration.

In the Office Action, claims 1, 3, 6-8, 10-11, 13 and 16-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginter (U.S. Patent Application Publication No. 2004/0133793) in view of Shimoyoshi (U.S. Patent No. 5,548,574), further in view of Yaegashi (U.S. Patent No. 6,499,106), and further in view of Martineau (U.S. Patent No. 5,893,910). Applicants submit that the claims are patentably distinguishable over the relied on art.

Independent claims 1 and 11 have been amended to more clearly show the differences between the claimed features and the relied on art. No new matter has been added by these changes.

As amended herein, claim 1 recites:

transmitting means for transmitting inquiry information to an information center over a communication line, the inquiry information including a particular frame of music data extracted from encoded digital data recorded on an external storage medium that has been loaded into said digital signal processing apparatus[.]

(Emphasis added.) Neither the relied on sections of Ginter, the relied on sections of Shimoyoshi, the relied on sections of Yaegashi, nor the relied on sections of Martineau disclose or suggest inquiry information including a particular frame of music data, and neither the relied on sections of Ginter, the relied on sections of Shimoyoshi, the relied on sections of Yaegashi, nor the relied on sections of Martineau disclose or suggest inquiry information including a particular frame of

music data extracted from encoded digital data recorded on an external storage medium.

The Examiner acknowledges that "[n]either Ginter nor Shimoyoshi, taken alone or in combination thereof teach or suggest ... said transmitted inquiry information including a particular frame of music data extracted from encoded digital data that have been recorded on a storage medium..." but contends that Yaegashi teaches this feature and relies on the Abstract and col. 8, line 60 to col. 11, line 21 of Yaegashi. The relied on sections of Yaegashi, however, simply describe:

...When a user wishes to access the information, he logs into the information access system using his unique user identification and password pair. The information access system then reads the disc identification information and sends its unique remote location identification number and the disc identification information as an access request to the central access control system via the bilateral communication link. ...

(Emphasis added; see col.9 ll.26-33; see also col.10 ll.47-54.) Namely, such sections of the patent describe an access request formed of a unique remote location identification number and disc identification information. The relied on sections of Yaegashi are not at all concerned with an access request that includes a frame of music data, and hence the relied on sections of Yaegashi do not disclose or suggest inquiry information including a particular frame of music data extracted from encoded digital data recorded on an external storage medium.

The relied on sections of Martineau do not remedy such deficiencies of the relied on sections of Yaegashi.

Amended claim 1 also calls for:

receiving means for receiving, from the information center over the communication line, a result of an inquiry that was conducted by the information center based on the transmitted inquiry information, the result of the inquiry indicating whether the extracted particular frame of music data

matches a corresponding frame of music data stored in the information center, the frame of music data stored in the information center being encoded or recorded in a manner consistent with the digital signal processing apparatus, the extracted particular frame of music data included in the inquiry information matching the frame of music data stored in the information center only when the encoded digital data recorded on the storage medium was encoded or recorded in the manner consistent with the digital signal processing apparatus and not matching the frame of music data stored in the information center when the encoded digital data recorded on the storage medium was encoded or recorded in a manner inconsistent with the digital signal processing apparatus[.]

Neither the relied on sections of Ginter, the relied on sections of Shimoyoshi, the relied on sections of Yaegashi, nor the relied on sections of Martineau disclose or suggest a result of an inquiry indicating whether an extracted particular frame of music data matches a corresponding frame of music data stored in an information center. Moreover, neither the relied on sections of Ginter, the relied on sections of Shimoyoshi, the relied on sections of Yaegashi, nor the relied on sections of Martineau disclose or suggest an extracted particular frame of music data included in inquiry information matching a frame of music data stored in an information center only when encoded digital data recorded on a storage medium was encoded or recorded in a manner consistent with a digital signal processing apparatus. Further, neither the relied on sections of Ginter, the relied on sections of Shimoyoshi, the relied on sections of Yaegashi, nor the relied on sections of Martineau disclose or suggest an extracted particular frame of music data included in inquiry information not matching a frame of music data stored in an information center when encoded digital data recorded on a storage medium was encoded or recorded in a manner inconsistent with a digital signal processing apparatus.

The Examiner acknowledges that "[n]either Ginter nor Shimoyoshi, taken alone or in combination thereof teach or suggest ...the result of the inquiry indicating whether the extracted particular frame of music data matches a corresponding frame of music data stored in the information center, the stored frame of music data being encoded or recorded in a manner consistent with the digital signal processing apparatus, the extracted particular frame of music data matching the stored frame of music data only when the encoded digital data recorded on the storage medium was encoded or recorded in the manner consistent with the digital signal processing apparatus... ." The Examiner, however, contends that Yaegashi teaches this feature and again relies on the Abstract and col. 8, line 60 to col. 11, line 21 of Yaegashi.

As described above, the relied on sections of Yaegashi are not at all concerned with an access request that includes a frame of music data. Additionally, the relied on sections of Yaegashi describe:

The central access control system records, in a database, the disc identification information of each disc of each set of distribution CDs and a remote location access rights list (ARL). In addition, a list of unique remote location identification numbers are stored in the central access control database. The disc identification information of each CD is correlated with the intended recipient remote location. Thus, the central access control system is able to determine which remote location should be authorized to access which distribution CDs.

...If the access control system is able to verify the request based on the central access control database and grant the request based on the ARL, the central access control system will send the requesting information access system a unique decryption key to access the particular distribution CD currently contained in the information access system.

(Emphasis added; see col.9 ll.11-19 and 33-38; see also col.10 ll.33-39 and 54-61.) Namely, the relied on sections of the

reference simply describe that permission to access to a particular distribution CD contained in the information access system is determined by comparing the unique remote location identification number and disc identification information contained in the access request with such information stored in the database. Such sections of Yaegashi are not at all concerned with whether access to the particular distribution CD contained in the information access system is determined based on whether an extracted particular frame of music data included in an access request matches a frame of music data stored in the access control system database. Hence, the relied on sections of Yaegashi do not disclose or suggest the claimed features set out above.

The relied on sections of Martineau do not cure these deficiencies.

It follows, for at least these reasons, that neither the relied on sections of Ginter, the relied on sections of Shimoyoshi, the relied on sections of Yaegashi, nor the relied on sections of Martineau, whether taken alone or in combination, disclose or suggest the apparatus set out in claim 1. Claim 1 is therefore patentably distinct and unobvious over the relied on references.

Independent claim 11 calls for features similar to those set out in the above excerpts of claim 1 and is therefore patentably distinct and unobvious over the relied on sections of Ginter, Shimoyoshi, Yaegashi, and Martineau for at least reasons set out above regarding claim 1.

Claims 3, 6-8 and 10 depend from claim 1, and claims 13 and 16-17 depend from claim 11. Therefore, each of these claims is distinguishable over the relied on art at least for the same reasons as its parent claim.

Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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